

Oct 01, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SENOVIA M.,¹

Plaintiff,

vs.

ANDREW M. SAUL,
COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

No. 2:18-cv-00334-MKD

**ORDER DISMISSING
COMPLAINT WITHOUT
PREJUDICE FOR FAILURE TO
PROSECUTE AND CLOSING
FILE**

On October 25, 2018, Plaintiff, proceeding *pro se* and *in forma pauperis*, filed a Complaint pursuant to the Social Security Act, 42 U.S.C. § 405(g), challenging the final decision of the Commissioner of Social Security to deny her applications for disability insurance and supplement security income benefits. ECF No. 4.

¹ To protect the privacy of plaintiffs in social security cases, the undersigned identifies them by only their first names and the initial of their last names.

1 On August 27, 2019, the Court entered an Order setting September 30, 2019
2 as Plaintiff's deadline for response to the Court's Order regarding Plaintiff's failure
3 to prosecute. ECF No. 22. This Order analyzed whether dismissal was warranted
4 in this case due to Plaintiff's failure to prosecute. In an abundance of caution due
5 to Plaintiff's *pro se* status, the Court granted Plaintiff additional time for response
6 and warned that due to the expiration of the period for seeking review, dismissal of
7 the Complaint could potentially preclude the pursuit of the same claims in the
8 future. ECF No. 22 at 4-6. Plaintiff was given until September 30, 2019 to either
9 file a dispositive motion, have an attorney appear on her behalf, or notify the Court
10 she does not intend to pursue her claims. ECF No. 22 at 6-7. Plaintiff was warned
11 the failure to timely respond to the Order would result in the dismissal of the
12 Complaint without prejudice. Plaintiff did not respond to the Court's August 27,
13 2019 Order.

14 The Court finds the five factors outlined in *Henderson v. Duncan*, 779 F.2d
15 1421, 1423 (9th Cir. 1986) and discussed in the Court's August 27, 2019 Order,
16 weigh in favor of dismissal. *See* ECF No. 22 at 3-6. The unreasonable delay in
17 prosecution of the case and failure to adhere to Court-imposed deadlines warrants
18 dismissal.

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1 **ACCORDINGLY, IT IS HEREBY ORDERED:**

2 1. Plaintiff Complaint, ECF No. 4, and the claims therein are **DISMISSED**
3 without prejudice.

4 2. The Court certifies under 28 U.S.C. § 1915(a)(3), that any appeal from
5 this Order would not be taken in good faith and therefore *in forma pauperis* status
6 is denied for purpose of an appeal. Plaintiff remains free to apply to the Ninth
7 Circuit Court of Appeals for *in forma pauperis* status on appeal. Fed. R. App. P.
8 24(a)(5).

9 The District Court Executive is directed to file this Order, furnish a copy to
10 counsel for the Defendant and mail a copy to Plaintiff, and **CLOSE THE FILE**.

11 DATED this October 1, 2019.

12 s/Mary K. Dimke
13 MARY K. DIMKE
14 UNITED STATES MAGISTRATE JUDGE